

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-250-C - ORDER NO. 96-837
DECEMBER 3, 1996

IN RE: Application of Sprint Communications Company L.P. to Amend its Certificate of Convenience and Necessity to Provide Telecommunications Services throughout the State of South Carolina to include Local Exchange Services and Exchange Access Services.) ORDER APPROVING AMENDMENT TO CERTIFICATE TO ALLOW FOR THE PROVISION OF LOCAL SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Sprint Communications Company L.P. ("Sprint" or "the Company"). The Application requests that the Commission grant an amendment to Sprint's existing Certificate of Public Convenience and Necessity in order to allow Sprint to provide telecommunications services throughout the State, including basic local exchange services and exchange access services. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts), and the Regulations of the Commission.

By letter dated August 20, 1996, the Commission's Executive Director instructed Sprint to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which

to file the appropriate pleadings for participation in the proceedings. Sprint complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth"); the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); GTE South Incorporated ("GTE"); and the South Carolina Telephone Coalition ("the Coalition").

A hearing was convened on November 14, 1996, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Sprint was represented by Darra W. Cothran, Esquire; BellSouth was represented by Harry M. Lightsey, III, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; the Coalition was represented by Margaret M. Fox, Esquire; and the Commission Staff ("Staff") was represented by Catherine D. Taylor, Staff Counsel. GTE did not appear.

Prior to the hearing, Sprint and the Coalition executed a Stipulation dated October 22, 1996. The Stipulation provides the following:

(1) The Coalition does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Sprint if the Commission made the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) Sprint agrees that any Certificate granted by the Commission will authorize Sprint to provide service only to customers located in non-rural local exchange company ("LEC")

service areas except as otherwise provided in the Stipulation;

(3) Sprint agrees that it did not request the Commission to find whether competition is in the public interest for rural areas;

(4) Sprint agrees that it would not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until Sprint provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Sprint also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) Sprint agrees that if, after Sprint gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Sprint will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) Sprint acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South

Carolina is subject to the conditions contained in the Stipulation, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) Sprint and the Coalition agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) Sprint agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the Coalition and Sprint and was filed with the Commission prior to the hearing in this matter. We therefore accept the stipulation.

In support of its Application, Sprint presented Tony H. Key, to testify. Key is employed by Sprint as Director, State Regulatory-South. The purpose of Key's testimony was to summarize Sprint's Application to amend its current operating authority in South Carolina in order to provide basic local exchange services and exchange access services. Key testified that Sprint is very experienced in providing telecommunications services in South Carolina. Key also testified that Sprint's interexchange network

is entirely digital. According to Key, Sprint will initially operate as a reseller of local exchange service but will transition to Sprint facilities when customer demand and economics dictate. Key also testified that negotiations with BellSouth for an interconnection agreement are ongoing in South Carolina.

DISCUSSION

S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Sprint's Application, and the evidence presented at the hearing, the Commission finds and concludes that the amendment to its Certificate sought by Sprint should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (as amended by Act No. 354, 1996 S.C. Acts) and the evidence presented which relates to that criteria:

(1) The Commission finds that Sprint possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1). To demonstrate Sprint's technical qualifications, witness Key testified that Sprint is both a facilities-based provider and a reseller of telecommunications services. The record reveals that Sprint owns a digital fiber network that spans the United States and owns switches and maintains Points of Presence sites (POPs)

throughout the United States. Key also offered that Sprint was found to be managerially, financially and technically fit when it was issued its initial Certificate of Public Convenience and Necessity and that nothing has occurred since Sprint's initial certification to change that fact. Concerning Sprint's managerial qualifications, Key testified that Sprint has an excellent senior management team, backed by thousands of experienced employees, who are competent in telephony engineering, operations and marketing. Further, Key noted that Sprint has established a group within its external affairs division to provide assistance and support to its competitive entry into the local exchange business to ensure compliance with all regulatory requirements. Regarding Sprint's financial resources, Key stated that Sprint has the ability to use the financial resources of Sprint Corporation and that Sprint is financially qualified to provide local exchange service in South Carolina. He further stated that Sprint's 1996 second quarter earnings increased over 1995 second quarter earnings. No party offered any evidence in opposition to Key's testimony. Based on the undisputed testimony of Key, the Commission finds that Sprint possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that Sprint will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (as amended by Act No. 354, 1996 S.C. Acts). Key testified that Sprint seeks to provide intrastate local exchange services. Key stated that Sprint will initially operate

as a reseller of local exchange service and consequently the quality of service that Sprint's local exchange customers will receive will be equivalent to that provided by the incumbent LECs. Key further stated that Sprint has complied with all applicable service quality standards as an interexchange carrier and will do so as a provider of local exchange services as well. Key also testified to the Company's ability to handle customer inquiries as well as Commission inquiries. No party offered any evidence to dispute Key's testimony. Based on the undisputed testimony of Key, the Commission believes, and so finds, that Sprint will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that Sprint's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (as amended by Act No. 354, 1996 S.C. Acts). The record shows that Sprint believes that availability of affordable local service will increase with Sprint's admittance into the local market. Further, Key's prefiled testimony reveals that Sprint anticipates that competition will require Sprint to price its services competitively or it will lose customers to competitors. No party offered any evidence that the provision of local exchange service by Sprint would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Sprint will not adversely impact affordable local exchange service.

(4) The Commission finds that Sprint will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (as amended by Act No. 354, 1996 S.C. Acts). Key testified that Sprint will participate in the support of universally available telephone service at affordable rates as it may be required to do so by the Commission. No party disputed Key's testimony. Based on the undisputed evidence of record, the Commission finds that Sprint will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by Sprint "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts). Key testified that Sprint proposes to offer a wide range of telecommunications services including, but not limited to, dedicated and switched access services, private line services, local dial tone, toll services and enhanced services and that Sprint intends to provide many and all services which are provided by local exchange carriers. Key also testified that competition will require Sprint to price its services competitively. Key's testimony was undisputed as no party offered any evidence that approval of Sprint's Application would adversely impact the public interest. Therefore, the Commission finds that approval of Sprint's Application for amendment to its Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (as amended by Act No. 354, 1996 S.C. Acts).

Therefore, based on the findings above, the Commission finds and concludes that the amendment to its Certificate sought by Sprint should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of Sprint for an amendment to its Certificate of Public Convenience and Necessity to allow Sprint to provide local exchange services and exchange access services in South Carolina is approved. Sprint is hereby authorized to provide local exchange services and exchange access services in South Carolina.

2. Sprint shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes to the proposed tariff to which Sprint agreed with the Commission Staff.

3. Sprint shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Sprint shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Sprint shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. Further, Sprint shall promptly notify the Commission in writing if the

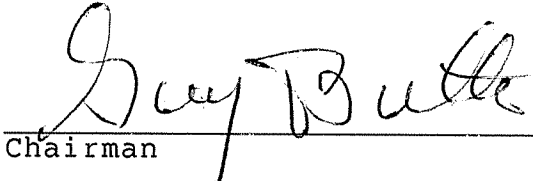
representatives are replaced. Sprint is directed to comply with all Commission regulations unless expressly waived by the Commission.

4. Sprint shall conduct its business in compliance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. The Stipulation filed by Sprint and the Coalition is approved by this Commission, is binding upon Sprint and the Coalition, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)